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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/703,038

10/31/2000

Tony M. Brewer

59182-P004US-10020641

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07/21/2006

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.

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EXAMINER

SAM. PHIRIN

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/703,038

Applicant(s)

BREWER ET AL.

Examiner

Phirin Sam

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 63-125 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 63-66,68-71,73-83,85-112,114-122,124 and 125 is/are rejected.
- 7) ☒ Claim(s) 67,72,84,113 and 123 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



PHIRIN SAM
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 88-111 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 88 and 89, “a first electrical switch stage” and “second electrical switch stage” contains subject matter, which was not addressed in the specification.

Regarding claims 90-111 are rejected under 35 U.S.C. 112, first paragraph because they depend on the rejected claims.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 63-66, 68-71, 73-83, 85-87, 112, 114-122, 124, and 125 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,711,357 (hereinafter referred as “Brewer”).

Regarding claims 63-66 and 68-71, Brewer discloses a method of passing Internet Protocol data packets through a network, said method comprising:

- (a) constructing a chunk as a substantially fixed quantity of data with a payload that is sized to fit more than one of said data packets (see Fig. 1, elements 12-1 to 12-N, col. 5, lines 39-45, col. 6, lines 5-11, 22-29, and col. 7, lines 19-26);
- (b) filling said payload of said chunk with a portion of at least one data packet (see Fig. 1, elements 12-1 to 12-N, col. 6, lines 5-11, 22-29, and col. 7, lines 27-30);
- (c) including a framing symbol in each said chunk (see Fig. 1, col. 7, lines 19-22);
- (d) converting said chunk from electrical information into optical information; and passing said chunk through an optical switch fabric (see Fig. 1, wherein all packets pass through ingress ASIC will convert from electrical information to optical information).

Regarding claims 73-77, Brewer discloses the method further comprising:

- (a) formatting the chunk to include a “break bytes” field and a “make bytes” field, the fields configured to precondition an optical receiver prior to the arrival of the chunk (see Fig. 9, elements 907 and 908, col. 15, lines 10-38).

Regarding claim 78-83 and 85-87, Brewer discloses the method further comprising:

- (a) formatting the chunk to include adding a chunk header (see Fig. 9, element 902, col. 14, lines 44-48).

Regarding claims 112 and 114, Brewer discloses a method of information flow through an IP packet network system, said method comprising:

- (a) encapsulating input data packets from a plurality of source ports into substantially fixed sized chunks, wherein said input data packets are electrical signals (see Fig. 1, elements 12-1 to 12-N, col. 5, lines 39-45, col. 6, lines 5-11, 22-29, and col. 7, lines 19-26);
- (b) formatting overhead information onto each of said chunks, said overhead including a framing symbol (see Fig. 1, col. 7, lines 19-37, and col. 14, lines 39-51);
- (c) electrically switching said chunks be sent to an appropriate optical switch plane; converting said chunks into optical signals (see Figs. 1 and 8, col. 13, lines 30-57);
- (d) directing said chunks through said appropriate optical switch plane toward a plurality of destination ports (see Figs. 1, col. 5, lines 28-61).

Regarding claims 115-122, 124, and 125, Brewer discloses the method further comprising:

- (a) formatting the chunk to include adding a chunk header (see Fig. 9, element 902, col. 14, lines 44-48).

Allowable Subject Matter

4. Claims 67, 72, 84, 113, and 123 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to claims 88, 94-96, 101-106, 108, 109, and 111 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phirin Sam whose telephone number is (571) 272-3082. The examiner can normally be reached on a compress schedule, from 8:00-5:30, first Wed off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272 - 3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully submitted,

Date: July 19, 2006

A handwritten signature in black ink, appearing to read 'Phirin Sam', written over a horizontal line.

**PHIRIN SAM
PRIMARY EXAMINER**